



STATE BOARD OF EQUALIZATION

August 16, 1967

Gentlemen:

In your letter of August 8, you ask a question relating to tax consequences when equipment leased under a rental purchase agreement prior to August 1, 1967 is purchased pursuant to the option exercised after August 1, 1967.

The facts, as we understand them, are that the rental purchase agreement was entered into on August 1, 1966. the option to purchase could be exercised at any time during the life of the agreement, and the purchase price was to be determined when the option was exercised. On August 5, 1967, the customer elected to exercise his option to purchase the equipment. The purchase price at this time is substantial.

The lease payments for the 12 months prior to August 1, 1967 were consideration for transactions defined as "sales" under the Sales and Use Tax Law. If the lease arrangement had continued, you would have increased the sales tax on such payments to 5 percent after August 1, 1967.

By the same token, the transaction under which you transferred title to the former lessee, pursuant to a cash payment or a sales contract, would be termed a sale. Five percent sales tax measured by gross receipts determined at that time is the proper tax to levy on this transaction.

Specific fact situations which vary from that which I outlined could result in different conclusions. Should you have further questions, please feel free to write.

Very truly yours,

T. P. Putnam
Tax Counsel

By A. Wells Petersen

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